RECORD AND BRIEF

No. 16-1161

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SUPREME COURT, U.S.

In The

Supreme Court of the United States

BEVERLY R. GILL, ET AL.,

Appellants,

v.

WILLIAM WHITFORD, ET AL.,

Appellees.

On Appeal From The United States District Court For The Western District Of Wisconsin

BRIEF OF *AMICUS CURIAE* SOUTHEASTERN LEGAL FOUNDATION IN SUPPORT OF APPELLANTS

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QUESTION PRESENTED

This case presents issues which this Court has twice confronted without full resolution: Whether political gerrymandering claims are justiciable, and if so, what standards apply. These issues are unsettled and unsettling to the States and localities that may be forced to apply any law that is ultimately established. *See Vieth v. Jubelirer*, 541 U.S. 267 (2004); *Davis v. Bandemer*, 478 U.S. 109 (1986). Before this Court resolves the latter issue, *amicus* notes there is a threshold question of standing which would pretermit any discussion of the merits.

Amicus respectfully restates the first Question Presented as follows:

Whether Plaintiffs' claims of injury constitute an individualized injury sufficient to establish standing or present only a generalized claim of grievance.

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INTEREST OF *AMICUS CURIAE*[1]

Southeastern Legal Foundation (SLF), founded in 1976, is a national non-profit, public interest law firm and policy center that advocates constitutional individual liberties, limited government, and free enterprise in the courts of law and public opinion. In particular, SLF advocates for the rigorous enforcement of constitutional limitations on the activities of federal and state governments. Its work extends to cases involving redistricting and is reflected in SLF's filing of *amicus curiae* briefs in support of efforts to rein in and guide federal judicial and administrative oversight of the states in cases such as *Bethune-Hill v. Virginia State Board of Elections*, 137 S. Ct. 788 (2017), *McCrory v. Harris*, 137 S. Ct. 1455 (2017), *Shelby County v. Holder*, 133 S. Ct. 2612 (2013), and *Northwest Austin Municipal Utility District No. 1 v. Holder*, 557 U.S. 193 (2009).

The recognition of political gerrymandering claims promises only more federal judicial involvement in the unambiguously state function of drawing state legislative districts. *Amicus* joins Appellants in urging this Court to not open the door to such a wide-ranging, mischief-promising intrusion. Before any political gerrymandering claims are deemed to be

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[1] All parties have consented to the filing of this brief by blanket consent or individual letter. *See* Sup. Ct. R. 37.3(a). No counsel for a party has authored this brief in whole or in part, and no person other than *amicus curiae*, its members, and its counsel has made monetary contribution to the preparation or submission of this brief. *See* Sup. Ct. R. 37.6.

justiciable, this Court should require those who challenge a legislative redistricting plan on political grounds to allege an individualized injury rather than a generalized one.

SUMMARY OF ARGUMENT

This Court "has never held that the racial composition of a particular voting district, without more, can violate the Constitution." *United States v. Hays*, 515 U.S. 737, 746 (1995). So, too, should be the case with the political composition of a particular district. It would require a leap over a yawning legal and prudential canyon to invalidate an entire plan because of its political composition.

But that is what the district court did, and it did so by allowing eleven plaintiffs to make a statewide claim. In political gerrymandering claims, as in racial gerrymandering claims, litigation should proceed on a district-by-district basis, not against the State as an "undifferentiated" whole. *Ala. Legislative Black Caucus v. Alabama*, 135 S. Ct. 1257, 1265 (2015). Plaintiffs have only a generalized grievance based on group characteristics that make a mockery of the need for a particularized injury.

The Constitution and the Voting Rights Act protect the rights of minority citizens as individuals. However, as this Court has found, they do not protect "farmers or urban dwellers, or Christian fundamentalists or Jews, *Democrats or Republicans*." *Vieth v.*

Jubelirer, 541 U.S. 267, 288 (2004) (emphasis added). This Court should reject Plaintiffs' invitation to enlist the judiciary to help out either political party.

ARGUMENT

I. Introduction

A. Plaintiffs' allegations.

In their Complaint, Plaintiffs alleged that "[r]egardless of where they reside in Wisconsin and whether they themselves reside in a district that has been packed or cracked[,]" the Wisconsin's Assembly redistricting plan caused them injury. J.A. 33 at ¶ 16. They explained: "Together with other Democratic voters, plaintiffs have been harmed by the Current Plan's political gerrymandering because it treats Democrats unequally based on their political beliefs and impermissibly burdens their First Amendment right of association." *Id.* 32-33 at ¶ 15.

Plaintiffs go on to state which district and county each of them lives in. *Id.* 33-36 at ¶¶ 17-27. For the most part, they leave it at that.

Several Plaintiffs say more.

In the context of Milwaukee, Ozaukee, Washington, and Waukesha Counties, which cover Districts 22, 23, and 24, Plaintiffs complain that the Legislature's plan turned District 22 from a Democratic district to a Republican one. *Id.* 50 at ¶¶ 60-62. Plaintiff Harris says she lives in District 22, without more. *Id.* 34 at

¶ 21. Plaintiff Wallace, who lives in District 23, complains that, "[i]n addition to the injury suffered by all Democrats in Wisconsin," he was injured when "Democrats in District 22 were cracked so that his previously Democratic district is now a Republican district." *Id.* 35-36 at ¶ 26. However, in the Complaint, Plaintiffs admit that a Republican candidate won District 23 in 2008, and the district would remain Republican under Plaintiffs' Demonstration Plan. *Id.* 50 at ¶ 60.

In the context of Calumet, Fond du Lac, Manitowoc, and Sheboygan Counties, Plaintiffs complain that District 26 was turned from a Democratic district to a Republican one. *Id.* 50-51 at ¶¶ 63-65. Plaintiff Donohue, who says she lives in District 26, alleges she was harmed "when the City of Sheboygan was split into District 26 and 27 and District 26 was cracked and converted from a Democratic to a Republican district." *Id.* 34 at ¶ 20.

In the context of Racine and Kenosha Counties, Plaintiffs claim that they lost one Democratic district, going from four Democratic and two Republican seats to three of each. *Id.* 51-52 at ¶¶ 66-68. They state that the Republicans won District 66 in 2008, and claim that a Democrat would win under their plan. *Id.* 52 at ¶ 66. Moreover, a Democrat won District 66 in 2012. *Id.* at ¶ 67. Plaintiff Mitchell, who lives in District 66 which elected a Democrat, complains that the plan's

dilution of her vote "reduced the number of Democratic seats in her region." *Id.* 35 at ¶ 24.[2]

With respect to Buffalo, Chippewa, Eau Claire, Jackson, La Crosse, Pepin, Pierce, St. Croix, and Trempealeau Counties, which contain Districts 67, 68, 91, 92, 93, 94, and 95, Plaintiffs claim that they lost one seat as the result of the plan. *Id.* 53-54 at ¶¶ 69-71.[3] Plaintiff Johnson, who lives in District 91, alleges that she was harmed "when Democratic voters were packed into District 91, wasting their votes and diluting the influence of Ms. Johnson's vote, as part of a gerrymander that reduced the number of Democratic seats in her region." *Id.* 34-35 at ¶ 23. The Democrats won District 91 in 2008 and in 2012 and would win it under Plaintiffs' plan. *Id.* 53 at ¶¶ 69-70.

With respect to Adams, Columbia, Marathon, Marquette, Portage, and Wood Counties, which contain all or part of Districts 42, 47, 69, 70, 71, 72, 85, and 86, Plaintiffs complain that they lost two seats. *Id.* 54-55 at ¶¶ 72-74.

With respect to Brown and Manitowoc Counties, which contain Districts 1, 2, 4, 5, 25, 88, 89, and 90 in

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[2] Plaintiff Jensen says he lives in District 63. J.A. 34 at ¶ 22. District 63 was won by a Republican in 2008 and 2012, although a Democrat would win it under Plaintiffs' plan. *Id.* 52 at ¶¶ 66-67.

[3] Plaintiffs also assert an "opportunity cost claim": if their plan were adopted, they would win six of the seven districts. *See* J.A. 53 at ¶ 69.

the prior plan, Plaintiffs complain that they lost one seat. *Id.* 55-56 at ¶¶ 75-77.

B. The district court's reasoning on standing.

In its decision, the district court majority held that Plaintiffs had standing. As for their injury, the court acknowledged that "the proposition is not settled in Supreme Court jurisprudence." *Whitford v. Gill*, 218 F. Supp. 3d 837, 927 (W.D. Wis. 2016). Even so, it found that Plaintiffs suffered an invasion of a legally protected interest because the plan made it more difficult to elect Democrats, and it was said to be "'extremely difficult' to pass legislation through a bipartisan coalition." *Id.* And with legislation being the product of one party, "erecting a barrier that prevents the plaintiffs' party of choice from commanding a legislative majority diminishes the value of the plaintiffs' votes in a very significant way." *Id.* at 927-28.

The district court said it saw a "very close" similarity to *Baker v. Carr*, 369 U.S. 186 (1962).

The district court also said that the "rationale and holding of *Hays* have no application here." *Whitford*, 218 F. Supp. 3d at 929. It reasoned that the basis for racial gerrymandering claims is different from that of a political gerrymandering claim. According to the district court, the "concern" in a political gerrymandering case "is the effect of a statewide districting map on the ability of Democrats to translate their votes into seats." *Id.* And as such, the district court noted: "The

harm is the result of the entire map, not simply the configuration of a particular district. It follows, therefore, that an individual Democrat has standing to assert a challenge to the statewide map." *Id.*

And according to the district court, an injury to Democrats is not a generalized injury because it is not done to the "public at large." *Id.*

Finally, the district court pointed to the effect of Wisconsin's caucus system. That system made it all the more important, in the court's judgment, to protect "the efficacy of the [plaintiffs'] votes in securing a political voice depends on the efficacy of the votes of Democrats statewide." *Id.* at 930.

II. Plaintiffs have no standing to bring their statewide claims.

A. This Court's precedent differentiates between claims of particularized injury, which may give rise to standing, and claims of generalized injury, which do not.

The case or controversy doctrines establish fundamental limits on the scope and exercise of federal judicial power in our system of government. *Allen v. Wright*, 468 U.S. 737, 750 (1984). Of those doctrines, standing is "perhaps the most important." *Id.* Indeed, the concept of standing as a prerequisite to federal court jurisdiction "is founded in concern about the proper – and a properly limited – role of the courts in

a democratic society." *Warth v. Seldin*, 422 U.S. 490, 498 (1975); *see also Lujan v. Def. of Wildlife*, 504 U.S. 555, 560 (1992) ("[T]he core component of standing is an essential and unchanging part of the case-or-controversy requirement of Article III.").

"[T]he irreducible constitutional minimum of standing contains three elements." *Id.* First, there must be "an injury in fact – an invasion of a legally-protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical." *Id.* (internal citations and quotations omitted). Second, there "must be a causal connection between the injury and the conduct complained of." *Id.* Third, "it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." *Id.* at 561 (internal quotations omitted).

In racial gerrymandering cases, the necessary particularized injury arises in a narrow context. The plaintiff must live in a racially gerrymandered district in order to have standing. *Hays*, 515 U.S. at 745. Living in the neighboring district, even if its shape is influenced by the allegedly racially gerrymandered case, is not sufficient. *Id.* at 746; *see also Sinkfield v. Kelley*, 531 U.S. 28, 30 (2000). Addressing this issue in *Hays*, this Court explained: "Of course, it may be true that the racial composition of District 5 would have been different if the Legislature had drawn District 4 in another way. But an allegation to that effect does not allege a cognizable injury under the Fourteenth Amendment." *Hays*, 515 U.S. at 746.

This Court explained that someone who lives in a racially gerrymandered district "may suffer the special representational harms racial classifications can cause in the voting context." *Id.* at 745. However, one who "does not live in such a district . . . does not suffer those special harms, and any inference that the plaintiff has personally been subjected to a racial classification would not be justified absent specific evidence tending to support that inference." *Id.* Absent such specific evidence, the claim of injury is only a generalized one.

This Court's *Alabama Legislative Black Caucus* decision is to the same effect. There, it explained: "A racial gerrymandering claim . . . applies to the boundaries of individual districts. It applies district-by-district. It does not apply to a State considered as an 'undifferentiated' whole." 135 S. Ct. at 1265.

In contrast, this Court has "consistently held that a plaintiff raising only a generally available grievance about government – claiming only harm to his and every citizen's interest in proper application of the Constitution and laws, and seeking relief that no more directly and tangibly benefits him than it does the public at large – does not state an Article II case or controversy." *Lance v. Coffman*, 549 U.S. 437, 439 (2007) (quoting *Lujan*, 504 U.S. at 560-61). Indeed, this Court's "refusal to serve as a forum for generalized grievances has a lengthy pedigree." *Id.* at 439-41 (discussing decisions from 1922, 1937, and 1984). In *Lance*, four Colorado voters who objected to a Colorado Supreme Court ruling that precluded the Colorado Legislature from redoing a court-drawn redistricting plan

were found to lack standing. The injury they complained of was "precisely the kind of undifferentiated, generalized grievance about the conduct of government that we have refused to countenance in the past." *Id.* at 442.

Similarly, in *Dillard v. Chilton County Commission*, 495 F.3d 1324 (11th Cir. 2007), the Eleventh Circuit Court of Appeals held that third parties challenging the legality of a district court's relief stated only a generalized grievance. There, the district court approved a change in the size of the Chilton County Commission as a remedy for a violation of Section 2 of the Voting Rights Act, an action that was later found to be beyond the scope of a district court's remedial powers in *Holder v. Hall*, 512 U.S. 874 (1994). Two intervenors sought to roll that remedy back. The Eleventh Circuit relied on *Lance* in abandoning its previous decisions finding standing for similar claims. *Dillard*, 495 F.3d at 1335.

B. Plaintiffs lack standing.

The district court said that, because political gerrymandering was involved, each Plaintiff as "an individual Democrat has standing to assert a challenge to the statewide map." *Whitford*, 218 F. Supp. 3d at 929. It further said that the injury was not one shared by "the public at large." *Id.*

The public at large rarely, if ever, however, suffers a common injury. In *Lance*, four voters objected to a decision of the Colorado Supreme Court that hurt their

political interest in a legislatively drawn redistricting plan. There were, undoubtedly, many Colorado residents who did not share that desire. Nonetheless, this Court found the claim of injury to be a generalized one. The remedy sought would have applied to all of Colorado.

Likewise, in *Chilton County Commission*, two intervenors were found to have stated only a generalized grievance. Again, while they had unnamed supporters, their claim was likely not one shared by the "public at large." Their remedy, however, would apply to the county as a whole in the form of a reconfigured county commission.

Here, eleven plaintiffs want a new General Assembly redistricting plan. Without being certified as representatives of a plaintiff class, they purport to represent all of the Democrats in Wisconsin, no matter where they live. Accordingly, Plaintiffs want to carry a banner for not just themselves, but others in Wisconsin, and their remedy will apply to every voter in Wisconsin. At least two (Mitchell and Johnson) complain that the plan reduces the number of Democratic districts in their regions. Plaintiffs' claims are necessarily generalized.[4]

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[4] Plaintiffs also have a redressability problem. Their remedy will change nothing if it does not give them a majority. As the district court conceded, it is Wisconsin's "strict caucus system" that limits the minority party's power. It wrote: "Wisconsin's strict caucus system means that all of the important 'debate and discussion' of proposed legislation takes place in the party caucus meeting,

Finally, Plaintiffs Whitford, Asclam, Bunting, Seaton, and Winter illustrate this generality most clearly. None of them lives in one of the districts that the Plaintiffs' claim to have lost through the redistricting. They just want more Democrats statewide. Accordingly, they seek a generalized benefit, and none should have standing to make such a claim.

The district court's reliance on *Baker v. Carr*, is misplaced. *Baker v. Carr* arose because Tennessee did not redraw or reapportion its legislative districts between 1901 and 1961. This Court observed:

> Between 1901 and 1961, Tennessee has experienced substantial growth and redistribution of her population. In 1901 the population was 2,020,616, of whom 487,380 were eligible to vote. The 1960 Federal Census reports the State's population at 3,567,089, of whom 2,092,891 are eligible to vote. The relative standings of the counties in terms of qualified voters have changed significantly.

Baker, 369 U.S. at 192. Those districts were woefully malapportioned, and they had been in place for 60 years.

This Court observed that the resulting injury "effect[ed] a gross disproportion of representation to voting population." *Id.* at 207. And, as the district court failed to note, it is not just any "arbitrary impairment

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and the party's vote, yea or nay, is the one 'that matters.'" *Whitford*, 218 F. Supp. 3d at 927. The caucus results will be the same so long as the party in power remains the same.

by state action" of a citizen's vote that is actionable; rather, a claim is actionable "when such impairment resulted from dilution by a false tally, or by a refusal to count votes from arbitrarily selected precincts, or by a stuffing of the ballot box." *Id.* at 208 (internal citations omitted).

In contrast, Plaintiffs make no claim that their districts are malapportioned. They do not complain about false tallies. They do not complain of refusals to count votes. They do not complain of stuffed ballot boxes. Moreover, the Assembly Plan to which they object was drawn in 2011 and will be redrawn after the 2020 Census results are delivered in order to cure any malapportionment that has developed since the previous Census. Any resemblance between their claims and those in *Baker v. Carr* is a distant one, at best.

Furthermore, Alabama's experience demonstrates the fragility of overreaching political gerrymandering. In *Vieth v. Jubelirer*, the leadership of the Alabama Senate and House of Representatives, all Democrats, encouraged the Court not to adopt a "new constitutional rule prohibiting political gerrymandering." *See* Brief of *Amici Curiae* Leadership of the Alabama Senate and House of Representatives, *et al.* in Support of Appellees, *Vieth v. Jubelirer*, 541 U.S. 267 (2004) (No. 02-1580), at 1. They patted themselves on the back for having redistricted without judicial intervention for the first time since 1901, attributing their success to a favorable political gerrymander. They explained that the plans they drew were the product of a "coalition" between white and African-American Democrats "that

sought to protect reliable Democratic seats with majority-black constituencies and to reduce the size of those majorities in order to increase the number of reliable Democratic voters in several seats closely contested between Democrats and Republicans." *Id.* at 1-2.

The Alabama Democrats further noted that their scheme succeeded in the 2002 elections "even though Republican candidates polled statewide majorities in Congressional and most statewide offices." *Id.* at 2. The Democrats garnered 52% of the statewide votes for the 35 Senate seats and won 71% of them. In addition, Democrats won 51% of the statewide votes for the 105 House seats and won 60% of them. *Id.*

The plans that the Alabama Democrats drew in 2001 lasted only until the 2010 elections, when the Alabama Republicans took a *supermajority* in each house. Those 2010 elections, and many other elections elsewhere (like the 2016 presidential election), demonstrate the inherent malleability of political affiliation. This is particularly true when district-based plans are redrawn and reapportioned after every census. If they want their candidates elected, Plaintiffs should be required to generate a majority at the polls, without judicial intervention.

III. Plaintiffs' claims lack a constitutional and statutory foundation.

While Plaintiffs' claims are couched in the First Amendment right of association, their claims do not fit within the Constitution or the Voting Rights Act. The

Reconstruction Amendments and the Voting Rights Act protect individuals, not groups. In addition, those individuals are identified with particularity, and there is no mention of political affiliation.

Section 1 of the Fifteenth Amendment declares: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of *race, color, or previous condition of servitude*." U.S. Const. amend XV, § 1 (emphasis added).

Section 1 of the Fourteenth Amendment makes "[a]ll *persons* born or naturalized in the United States" citizens and protects the "privileges or immunities" of citizens from "abridge[ment]." U.S. Const. amend XIV, § 1 (emphasis added). In addition, it bars the States from "depriv[ing] any *person* of life, liberty, or property, without due process of law," or "deny[ing] to any *person* within its jurisdiction the equal protection of the laws." *Id.* (emphasis added).

Likewise, through Section 2 of the Voting Rights Act Congress barred the "impos[ition] or appli[cation]" of voting rules in a way that "results in a denial or abridgement of the right of any citizen of the United States to vote on account of *race or color*[.]" 52 U.S.C. § 10301(a) (emphasis added). And it protected "opportunity," not outcomes. As this Court has explained, "the ultimate right of § 2 is equality of opportunity, not a guarantee of electoral success for minority-preferred candidates of whatever race." *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 428 (2006) (quoting

Johnson v. De Grandy, 512 U.S. 997, 1014 n.11 (1994)). Section 2 requires neither proportional representation, nor "electoral advantage" or "maximiz[ation]" for minority voters. *Bartlett v. Strickland*, 556 U.S. 1, 20, 23 (2009); *see also* 52 U.S.C. § 10301(b) ("[N]othing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.").

Notably, the Sixth Circuit Court of Appeals has rejected the notion that the Voting Rights Act protects groups like all the Democrats in a State. *Nixon v. Kent Cty.*, 76 F.3d 1381 (6th Cir. 1996); *see also Vieth*, 541 U.S. at 288 (plurality op.) ("Deny it as appellants may (and do), this standard rests upon the principle that groups (or at least political-action groups) have a right to proportional representation. But the Constitution contains no such principle."). The Sixth Circuit pointed out that the Act speaks of "citizens" not "classes" of them; a violation is established when political processes are not equally open to the "members" of a protected class; and one consideration is the extent to which the "members of a protected class" have been elected to political office. *Nixon*, 76 F.3d at 1386-87. It also noted that the only time the "aggregation of separately protected groups" is addressed in the Act, such aggregation is excluded for language minorities seeking to meet the numerical threshold for foreign-language ballots. *Id.* at 1387 n.7.

By couching their claims in the First Amendment, Plaintiffs attempt to end-run these limitations. *Cf. Albright v. Oliver*, 510 U.S. 266, 273 (1994) (plurality op.)

("Where a particular Amendment provides an explicit textual source of constitutional protection against a particular sort of governmental behavior, that Amendment, not the more generalized notion of 'substantive due process,' must be the guide for analyzing these claims.") (internal quotations omitted). But, nothing in the First Amendment guarantees a right of electoral success or even a "fair shot" at it. *See New York State Bd. of Elections v. Torres*, 552 U.S. 196, 204-06 (2008); *see also Badham v. Eu*, 694 F. Supp. 664, 675 (N.D. Cal. 1988), *aff'd*, 488 U.S. 829 (1989) ("The First Amendment guarantees the right to participate in the political process; it does not guarantee political success."). This Court should decline Plaintiffs' invitation to "open up [a] new and excitingly unpredictable theater of election jurisprudence." *Torres*, 552 U.S. at 206.

IV. Plaintiffs seek to use the Voting Rights Act for improper political purposes.

Plaintiffs seek to put the Voting Rights Act to use in serving the institutional interests of the Democratic Party. This Court should not "transform the Voting Rights Act from a law that removes disadvantages based on race, into one that creates advantages for political coalitions that are not so defined." *Hall v. Virginia*, 385 F.3d 421, 431 (4th Cir. 2004).

That is not just upside down, it is inconsistent with the Voting Rights Act and this Court's decisions. In pertinent part, a violation of Section 2 is established if a racial minority has "less opportunity" to participate

in the political process. 52 U.S.C. § 10301(b). "Granting minorities a right to rearrange districts so that their political coalition will usually win has nothing to do with equal opportunity, but is preferential treatment afforded to no others." Michael A. Carvin & Louis K. Fisher, *"A Legislative Task": Why Four Types of Redistricting Challenges Are Not, or Should Not Be, Recognized by Courts*, 4 Election L.J. 2, 17 (2005) (citing *DeGrandy*, 512 U.S. at 1020). Political minorities should receive no more protection than racial ones.

Nothing in the statute requires one political party to have a greater opportunity than others. Significantly, Plaintiffs seek to further their own interests to the exclusion of the legislative majority. This Court should not reward political failure. *Cf. Whitcomb v. Chavis*, 403 U.S. 124, 153 (1971) (finding no vote dilution claim when a minority group "along with all other Democrats, suffers the disaster of losing too many elections").

Separate and apart from that, the Voting Rights Act was meant to address race, not political party affiliation. President Lyndon Johnson focused on ending practical barriers to minority voting, which he identified and divided into three categories: (1) technical (e.g., poll taxes), (2) noncooperation, and (3) subjective (e.g., literacy tests). *See* Message from the President of the United States Related to the Right to Vote, 89th Cong., 1st Sess. (1965). When he spoke to a special joint-session of Congress, President Johnson observed, "[W]e met here tonight as Americans – *not as Democrats or Republicans* – we are met here as Americans

to solve that problem" of assuring equal rights for African-Americans. *Id.* (emphasis added).

This Court should heed President Johnson's exhortation and refrain from doing political work for one party or the other. The political parties do not, or should not, need this Court's help.

CONCLUSION

For the foregoing reasons, and those stated by Appellants in their Brief for Appellants, *amicus* respectfully requests that this Court reverse the judgment of the United States District Court for the Western District of Wisconsin and remand this case with instructions that it be dismissed.

Respectfully submitted,

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